



Paper No. 10

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OFFICE OF PETITIONS

In re Application of :
Giesler et al. :
Application No. 09/819,071 : DECISION GRANTING PETITION
Filed: October 9, 2001 :
Attorney Docket No. 658/49678CO :

This is a decision on the "Petition To Correct Filing Date," submitted by facsimile transmission on January 23, 2003, requesting that the application be accorded a filing date of October 9, 2001, instead of the current filing date of June 18, 2002.

On October 9, 2001, applicants deposited the above-identified application. The specification consisted of 15 pages of German text. On March 18, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," requiring a complete specification including at least one claim as prescribed by 35 U.S.C. § 111, an executed oath or declaration, and an abstract of the technical disclosure. The Notice further stated that the filing date would be the date of receipt of a complete specification including at least one claim in the United States Patent and Trademark Office. The Notice set forth a two-month period for reply from the mail date of the Notice.

On June 27, 2002, applicants filed a petition under 37 CFR 1.53(e), stating that on October 9, 2001, applicants filed a foreign language application, in which the specification included at least one claim. Applicants further stated that in addition to the foreign language application, applicants filed an English language translation of the foreign specification that also included at least one claim, and the declaration of translator, Christa Schaertel. The petition was accompanied by a copy of applicants' itemized postcard receipt date-stamped October 9, 2001, an executed declaration, a specification in English of 17 pages, including 17 claims, and one page of abstract.

The German language specification filed on October 9, 2001, was located in the file. Accordingly, the petition of June 27, 2002, was granted by the decision of October 2, 2002. The decision stated that the Notice mailed on March 18, 2002, was sent in error and would be vacated.

On December 23, 2002, applicants were mailed a "Withdrawal Of Previously Sent Notice," stating that it came to the Office's attention that the Notice of March 18, 2002, was sent in error. The Office further indicated that applicants should disregard the Notice and that the application was complete and would be processed for examination. However, the official filing receipt indicated an incorrect filing date of June 18, 2002, for the above-identified application.

As previously stated in the decision of October 2, 2002, the above-identified application is entitled to a filing date of October 9, 2001. The record supports applicants' assertion that the United States Patent and Trademark Office erroneously changed the application's filing date to June 18, 2002, instead of the correct filing date of October 9, 2001. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for reprocessing, correction of the filing date to October 9, 2001, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

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